

Tab 2

Gena P. Cook

April 28, 2005

Seattle, WA

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS

3 -----

4 IN RE: PHARMACEUTICAL ) MDL DOCKET NO.  
5 INDUSTRY AVERAGE WHOLESALE ) CIVIL ACTION  
6 PRICE LITIGATION ) 01CV12257-PBS

7 )

8 THIS DOCUMENT RELATES TO: )

9 ALL ACTIONS )

10 -----

11 DEPOSITION UPON ORAL EXAMINATION OF

12 GENA P. COOK

13 -----

14 9:10 a.m.

15 April 28, 2005

16 1301 Fifth Avenue, Suite 2900

17 Seattle, Washington

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26 (Pages 98 to 101)

<p>98</p> <p>1 Q. How often would you visit clients then?</p> <p>2 A. A couple times a week.</p> <p>3 MR. EDWARDS: I take it that prior</p> <p>4 question you're just withdrawing.</p> <p>5 MR. LOPEZ: No, I'm -- well, I'm</p> <p>6 withdrawing it in the sense that I intend to</p> <p>7 rephrase.</p> <p>8 MR. EDWARDS: Okay, good. Just didn't</p> <p>9 want anybody to think we're refusing to answer.</p> <p>10 MR. LOPEZ: No, no, not at all. I just</p> <p>11 want to help out the witness and make sure we're all</p> <p>12 clear, make sure we're all on the same page.</p> <p>13 Q. During the sales calls that you would make</p> <p>14 as district business manager a couple times a week,</p> <p>15 did the topic of margin as we've just been discussing</p> <p>16 it, the difference between a net price and the AWP,</p> <p>17 ever come up?</p> <p>18 A. From time to time a customer would bring</p> <p>19 it up, yes.</p> <p>20 Q. Would you ever bring it up?</p> <p>21 A. I don't remember ever bringing it up.</p> <p>22 Q. And you were generally accompanied by</p>	<p>100</p> <p>1 MR. EDWARDS: Again, are you asking her</p> <p>2 to speculate about that, or are you asking her</p> <p>3 whether the customers explained why they brought it</p> <p>4 up?</p> <p>5 Q. Can you answer the question as phrased?</p> <p>6 MR. EDWARDS: Note my objection.</p> <p>7 A. Why I think that a particular brought that</p> <p>8 up would be because they were concerned about</p> <p>9 reimbursement, and they were concerned that --</p> <p>10 Q. Concerned in what way?</p> <p>11 A. (No response.)</p> <p>12 Q. Let's talk about what they said. How did</p> <p>13 they express their concerns?</p> <p>14 A. I'm just going to try to remember back</p> <p>15 to --</p> <p>16 Q. Sure. Sure.</p> <p>17 A. I'll give you an example of a time when I</p> <p>18 remember hearing it. And I don't know the particular</p> <p>19 customer or can't remember.</p> <p>20 Q. Sure.</p> <p>21 A. But there was a period of time when</p> <p>22 Paraplatin took a price increase, and I don't</p>
<p>99</p> <p>1 someone, then?</p> <p>2 A. I was generally with a salesperson.</p> <p>3 Q. And do you ever recollect during that time</p> <p>4 period a salesperson bringing up margin for any</p> <p>5 reason without being prompted?</p> <p>6 A. I don't remember a salesperson bringing it</p> <p>7 up.</p> <p>8 Q. But you're not saying it never happened?</p> <p>9 A. It was four or five years ago. I can't</p> <p>10 remember. But we as -- I mean, what we were trying</p> <p>11 to do was sell clinical data and sell on the merits</p> <p>12 of our drugs, and the benefits of our drugs from a</p> <p>13 clinical perspective, so that physicians understood</p> <p>14 how to use the drug and could appropriately treat</p> <p>15 cancer patients. So that was the focus of our sales</p> <p>16 calls. That's what we did when we walked into an</p> <p>17 office.</p> <p>18 Q. But you did say that customers would bring</p> <p>19 it up from time to time, is that correct?</p> <p>20 A. I can remember times where a customer</p> <p>21 would bring that up.</p> <p>22 Q. Why would they do that?</p>	<p>101</p> <p>1 remember the increase. Let's say they took a</p> <p>2 percentage increase, and the customer would complain</p> <p>3 to us, being BMS employees, because they were upset</p> <p>4 that BMS took a price increase because that would</p> <p>5 change their reimbursement rate by the amount of the</p> <p>6 price increase.</p> <p>7 Q. Because it would shrink the margin?</p> <p>8 A. Well, they would -- essentially they would</p> <p>9 not be reimbursed that amount for the price increase.</p> <p>10 Q. What about the opposite direction? Was it</p> <p>11 ever the case that the margin would come up when</p> <p>12 there had been a price decrease from BMS but the AWP</p> <p>13 had stayed the same?</p> <p>14 A. I don't remember a customer ever</p> <p>15 complaining.</p> <p>16 Q. Did it ever come up? Did a customer ever</p> <p>17 say, "Wow, this is great"?</p> <p>18 A. I don't remember a customer ever saying</p> <p>19 that to me.</p> <p>20 Q. Do you ever recall a BMS salesperson or</p> <p>21 yourself pointing that out, the fact that the net</p> <p>22 price for a drug had decreased while AWP had stayed</p>